

IN THE COURT OF APPEALS OF IOWA

No. 0-330 / 10-0486

Filed May 26, 2010

**IN THE INTEREST OF N.W. and J.W.,
Minor Children,**

**J.A.W., Mother,
Appellant.**

Appeal from the Iowa District Court for Scott County, John G. Mullen,
District Associate Judge.

A mother appeals from the district court's order terminating her parental
rights to her children. **AFFIRMED.**

Dana L Copell, Davenport, for appellant mother.

Lucy Valainis, Davenport, for appellee father of N.W.

Timothy Tupper, Davenport, for appellee father of J.W.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, Michael J. Walton, County Attorney, and Julie Walton,
Assistant County Attorney, for appellee State.

Rebecca Ruggero, Bettendorf, guardian ad litem for minor children.

James Wozniak, Moline, Illinois, for the minor children.

Considered by Vogel, P.J., and Potterfield and Danilson, JJ.

VOGEL, P.J.

Jessica appeals the termination of her parental rights to her two children, N.W., born December 2005, and J.W., born December 2007.¹ The district court terminated Jessica's rights under Iowa Code sections 232.116(1)(e), (f), (h), (i), and (k) (2009). We affirm.

Our review of termination of parental rights cases is de novo. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006).

Jessica's only argument on appeal is that termination was not in the children's best interests. N.W. and J.W. were removed from Jessica's care in January 2009,² and she has been incarcerated throughout the majority of the pendency of these proceedings. N.W. is living with his father, with whom Jessica cannot associate because of a protective order. J.W. is in foster care. Jessica's contact with the children has been limited since her incarceration, and prior to incarceration she participated only minimally in services toward reunification. She was offered services to help improve her mental health and overcome her substance abuse issues, but she did not complete treatment nor consistently take her prescribed medications. Jessica has never addressed nor resolved how being a victim of sexual abuse has impacted her life and her ability to be an effective parent. While she was assisted in finding housing, and placed at Humility of Mary housing, she was evicted for noncompliance with program rules.

¹ J.W.'s father's parental rights were terminated, and he does not appeal.

² The children were voluntarily placed with maternal grandparents in January 2009, by way of an Iowa Department of Human Services safety plan, and the children were court ordered removed from the grandparents' care in April 2009 and initially placed in family foster care.

While Jessica asserts it is “likely” she will “be in a position one day” to care for the children, it is due to her own lifestyle choices that Jessica has been unavailable to her children. An Iowa Department of Human Services social worker testified Jessica’s past behavior “has been a strong indicator of blatant disregard for the rules and for the laws . . . I don’t think she understood consequences or even appreciated the consequences of her actions until after she got in trouble.” Further, “She had a lot of difficulties putting forth positive skill development to correct [N.W.’s] behavior.”

Even when the evidence supports termination, we still consider whether termination is in the children’s best interests. *In re P.L.*, 778 N.W.2d 33, 37, 40 (Iowa 2010) (stating that even if a statutory ground for termination is met, a decision to terminate must still be in the best interests of the child after a review of Iowa Code section 232.116(2)). The district court found, “If placed in the custody of [Jessica], the children would be subject to high risk of adjudicatory harm in the nature of physical abuse, neglect, failure of supervision, failure to provide appropriate food, clothing, shelter, necessities and safety.” Considering N.W. and J.W.’s safety, the best placement for furthering their long-term nurturing and growth, and their physical, mental, and emotional condition, we affirm the district court. *Id.*

We conclude termination of Jessica’s parental rights was in N.W. and

J.W.'s best interests as set forth under the factors in section 232.116(2).³

AFFIRMED.

³ Jessica asserts she deserved additional time prior to termination. Our legislature has established time periods for parents to demonstrate they can safely parent, and Jessica did not demonstrate in that time period that she could safely parent. See *In re C.K.*, 558 N.W.2d 170, 175 (Iowa 1997).